

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HARRY SMITH, JR., and ROSLYN)
WOODARD SMITH, individually and as)
Administrators of the ESTATE OF HARRY)
SMITH, III)

Plaintiffs,)

v.)

C.A. No. 04-1254-GMS

CITY OF WILMINGTON, JOHN)
CIRITELLA, THOMAS DEMPSEY and)
MATTHEW KURTEN,)

Defendants.)

JURY TRIAL DEMANDED

AFFIDAVIT OF DONALD DEMPSEY

COUNTY OF NEW CASTLE)
) SS:
STATE OF DELAWARE)

Donald Dempsey, being first duly sworn, deposes and says that:

1. I am a Master Corporal with the Wilmington Police Department. On September 13, 2003 was a Senior Corporal with the Wilmington Police Department.

2. On September 13, 2003 I was on patrol when I head 16 Charles's officer-needs-assistance radio broadcast followed by a broadcast that shot or shots had been fired and that the suspect was in control of 16-Charles's patrol car. I also heard the broadcast description of the route being taken by the stolen police car on Wilmington Police radio.

3. I drove southbound on Jackson Street toward Fourth Street. Upon arrival at Fourth and Jackson I observed the stolen police car heading west on Fourth Street. The stolen police car was followed at some distance by other Wilmington Police cars. I recall that at that time the lead car in the pursuit was a detective's car.

4. I immediately made a right hand turn onto Fourth Street and followed the stolen police car heading west on Fourth. I was now the lead car in the pursuit.

5. The stolen police car next turned right onto VanBuren Street and headed north. I followed. The stolen police car next turned left onto Fifth Street, heading west. Again I followed, I was still the lead car in the pursuit.

6. In the 1100 block of West Fifth Street the stolen police car slowed and appeared to be stopping, at which time I stopped my vehicle and started to get out of the car. At this point, the suspect in the stolen police car began again to drive west on Fifth Street, whereupon I immediately got back into my car.

7. About this time I noticed what appeared to be a red detective car blocking at least part of Fifth Street where it intersects with Harrison Street.

8. The suspect again slowed and appeared to be stopping as he approached Harrison. I saw Detective John Ciritella on the northern sidewalk of 5th Street near where it intersects with Harrison, and I heard him shouting to the suspect in the stolen police car to stop the car.

9. All of a sudden, the suspect accelerated the stolen police car and drove directly as Detective Ciritella. I now believed Detective Ciritella's life to be in danger. I immediately got out of my car and I heard gun shots as I got out.

10. I next observed the stolen police car drive on the sidewalk at the northwest corner of 5th and Harrison Streets. At this point the stolen police car hit a Jeep parked on the eastern side of Harrison Street. I saw the stolen police car pushed the Jeep out of the way and turned right on to Harrison Street.

11. I saw the stolen police car head north on Harrison Street pursued by officers on foot. I heard a brief period of gunshots as the car proceeded on Harrison before I observed the

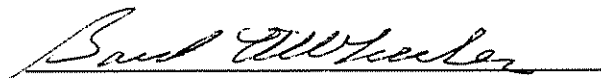
stolen police car stop. At no time after the car stopped did I hear any gunshots or observe anyone shooting at the car.

12. I next observed Detective Ciritella reach into the stolen police car and appear to put the car into park as it was drifting at that time. I also observed officers remove the suspect from the driver's side and begin CPR. At this time I radioed that we needed an ambulance at our location.

13. I did not observe any police cars or officers north of the stolen police car on Harrison Street until after the incident was over. Although I drew my weapon from my holster, I did not fire any shots during this incident.


Donald Dempsey

SWORN to and subscribed before me this
7th day of June, 2006.


Notary Public

BARBARA A. WHEELER
Notary Public - State of Delaware
My Comm. Expires June 20, 2006

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

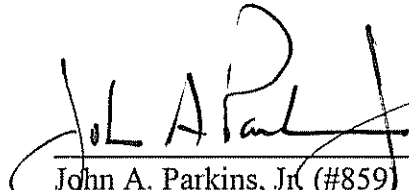
CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

Kester I.H. Crosse, Esquire
Williams & Crosse
1214 King Street
Suite 300
Wilmington, DE 19801

I hereby certify that on June 14, 2006, I have sent by U.S. Regular Mail, the foregoing document to the following non-registered participants:

Anne T. Sulton, Esquire
Post Office Box 2763
Olympia, WA 98507



John A. Parkins, Jr. (#859)
Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899
(302) 651-7700
Parkins@rlf.com